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AN EXAMINATION

OF THE

S. A. C.

REMARKS

ON THE

Report of the Commissioners,

APPOINTED BY THE

LEGISLATURE OF NEW-YORK,

ON THE 12TH OF APRIL, 1824,

TO VISIT THE STATE-PRISONS AT NEW-YORK AND AUBURN, AND
THE ACT PROPOSED FOR REGULATING THE SAME.

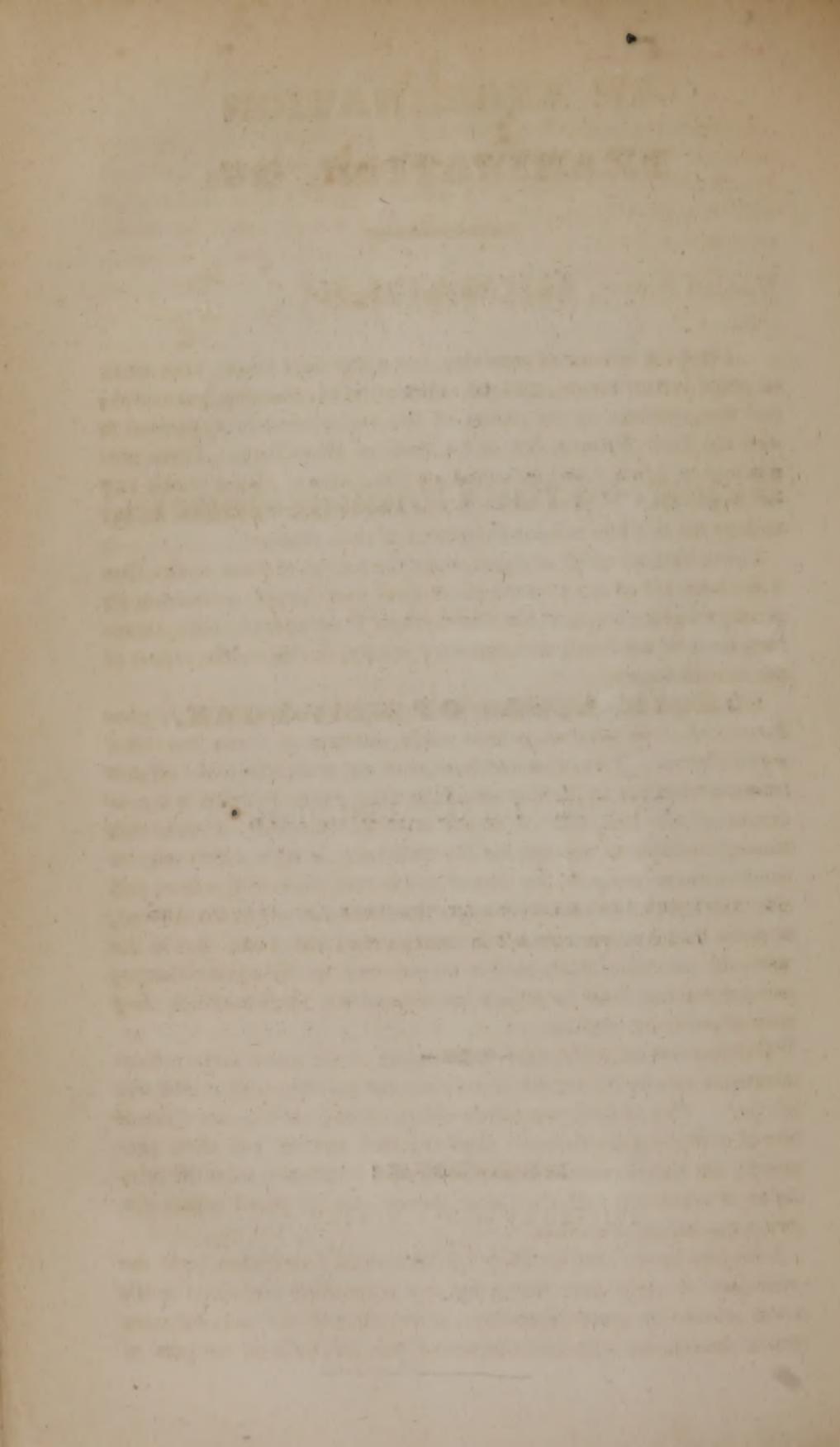


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EXAMINATION, &c.

WILLIAM ROSCOE, Esq. *Liverpool England,*

Sir,—

I had the honour of receiving, but a few days since, your work on penal jurisprudence, and the reformation of criminals, part third ; and also, remarks on the report of the commissioners appointed to visit the State Prisons, &c. of the state of New-York. These productions of yours, have remained at the Custom House of this city for more than a year without my knowledge, which must be my apology for this late acknowledgement of their receipt.

I have been so much engaged, since the receipt of these works, that it has been out of my power even to read your larger production on penal jurisprudence, and the observations I am about to offer, therefore, must be confined, and that very briefly, to that on the report of the commissioners.

It is proper here to premise, that the report in question is the production of three persons, whose early pursuits at least, has been very different. Two of us are mere practical men, who make no pretensions whatever to literary acquirements ; while the third is a gentleman of the bar, and of course liberally educated. I make this remark, in order to account for the difference in style which may be found in some parts of the report when compared with others, and also that some of the opinions apart from those in which we differed, as stated in the report, are not the sentiments of all of us. But in the main, the principles attempted to be enforced by the commissioners, and particularly those to which you object, are such in which they have all cordially united.

You have stated truly, that “the object of the report is the recommendation of a strict system of imprisonment, united with productive labour.” This system you acknowledge would tend to the diminution of crimes more effectually than any that has as yet been proposed ; but that it is accompanied with such a deviation from the principles of right and justice as must induce you to pause before you give it explicit approbation.

I am not aware that we have recommended a deviation from the principles of right and justice by any proposition contained in the report alluded to, more especially as we contend for nothing more than a compliance with the sentence of the law, both on the part of

the convicts as well as their keepers. By the criminal law of this state, a person convicted of arson, is doomed to an imprisonment in the State Prison, for a term not exceeding fourteen years, at the discretion of the court. Is it a deviation from the principles of right and justice then, that his imprisonment should be strict, and that he should be bound to labour in proportion to his ability, in order that the community may in some measure be relieved from the expense of his support?

You say, that "the report considers the criminal as divested of all natural and political rights, and sacrifices him to the idea of the public security."

The above you have not marked as a quotation, and I conclude therefore, that it is only an inference drawn from the general reasoning of the report. Whether the sentiments you have attributed to the commissioners are fairly deducable from the language they have adopted or not, I shall not now stop to inquire; but it may be well to ascertain what are the natural and political rights of a criminal convicted of rape, highway robbery, burglary, sodomy, maiming, forging public securities, &c. the punishment of which is death by the laws of England; and of this state, imprisonment for life? Are they not dead in law, and consequently without rights, natural or political?

"In the eye of reason and philosophy, (you contend) punishment can only be justified on the ground of its being intended for the reformation of the offender." But in my humble opinion, the punishment of offences is also intended to deter from the commission of crime, and there cannot be a doubt that in a measure at least, it has had this effect. I agree with you that the punishment ought to be in proportion to the crime; and upon this principal, our laws are professedly framed; but upon the Penitentiary system, this can only be effected by the duration of the punishment, and not by the degree; and our courts are therefore restricted in their sentences, to a term not exceeding fourteen years, ten years, seven years, and three years, according to the degree of crime specified by the act, except the crimes of treason and murder, which is punishable by death, and the crimes already noted, punishable with imprisonment for life.

I am led to conclude, that although you have thought and wrote much on penal jurisprudence, the management and discipline of prisons, and the punishment of criminals, still, that there is a want of experimental and practical knowledge, without which, no man can form a correct judgment of what is necessary for the management of a community of convicted felons. My knowledge of the criminal laws of Great Britain is very limited; but I am led to believe, that, for the degree of crime committed in this state, which dooms the

convict to confinement in the State Prison, you either transport or hang him ; and that the prisons in England are applied to the safe keeping, not only of felons before and after trial, but of debtors, and those who have incurred penalties under the municipal laws of the cities, manors, &c. There is a wide difference therefore, between the disposition, propensities, and habits, of a confirmed villain, and one who incurs a pecuniary penalty for the violation, perhaps unknowingly, of a statute.

You have entirely mistaken the recommendation of the commissioners, when you state that they have advised the abandonment of the New-York and Auburn prisons, in order that new ones may be built in the vicinity of large marble quarries, where the convicts may be employed in working marble for buildings, &c. The report states no such thing ; but on the contrary, decidedly approbates both the situation and construction of the prison at Auburn, as a building perfect of its kind ; and in comparing it with the New-York prison, attempts to show the unfitness of the latter for the purpose of a penitentiary, both as to the badness of its construction and the impropriety of its present location. It was never intended or expected by the commissioners, in suggesting the removal of the New-York prison to one of the marble quarries, that all the men confined should work at the business of dressing marble. There are always a portion of the convicts that would be unable to undergo the labour of the quarries ; and it will necessarily result therefore, that other trades must be introduced, such as weaving, tailoring, shoe-making, &c. both for the convenience of the institution, in providing clothing for the prisoners, as well as to employ those who are unable to undergo the more laborious task of breaking and dressing stone. But say you, the cutting of stone is the entire ruin of the convict, as it instructs him in no art or trade by which he may hope to obtain a livelihood in case of his discharge. Now so far from this being the case, the business of stone-cutting in the city of New-York, and it is believed in almost all the cities of the United states, is one of the most profitable that is followed. A day labourer at the business receives from one and a half to two dollars per day, and those who carry it on extensively, have generally accumulated handsome fortunes in a reasonable number of years. It follows therefore, that there is no business so well calculated to shield the convict from the fear of want after his discharge as the one in question, or that would more readily deprive him of every shadow of excuse for returning to his former courses.

You assert that, "the plan proposed by the commissioners, amounts in fact, to a sentence of imprisonment for life." This, in

my opinion, is by no means a fair inference to be drawn from our report; for although the language employed in conveying our views of the present operation and results of the system may have warranted the conclusion, still, taking the report as a whole, I am not willing to admit the fact, any more than I am that such were our sentiments or intentions. To have recommended imprisonment for life for every offence, without distinction, would have been an absurdity, such as I think no reasonable man would have been guilty of; and professing to be reasonable beings, we cannot admit the imputation of recommending what would have been both unjust and unreasonable. The truth is, that our whole object was to enforce by reason and example, the necessity of fulfilling the sentence of the law upon the wrong-doer, and nothing more or less.

You complain "that the labour of the convict is compulsory, and that no provision is made for exemplary conduct, obedience, or industry."

That the convict should be compelled to labour, who will deny? Do men labour because they derive pleasure from the employment? by no means. It is from necessity, which is the same in fact as compulsion, that induces men to labour. And permit me to inquire, how many of the human beings employed in your extensive manufacturing establishments would perform the labour to which they are subjected, if they were not compelled to it by necessity? Do you really believe they would labour at all if the calls of nature were supplied at their hand without labouring for the means of obtaining them? I presume you do not. Where then is the hardship of compelling a convicted felon to earn his bread by the sweat of his brow, when so many better men, and men too who contribute a portion of their hard earnings to the support of prisons are compelled to labour much more incessantly than the convict, in order that they and their families may be supported in honesty; But "no provision is made for exemplary conduct, obedience, or industry." And in your opinion a certain portion of the profits derived from the labour of the convict ought to be appropriated to his use and paid over to him on his discharge as an incentive to industry.

The provision, and the only provision which ought to be expected by the convict for exemplary conduct, is the best treatment which the law allows, viz. a freedom from corporal punishment and the good opinion and confidence of his keepers; and as for the allowance of a portion of his earnings as an encouragement to industry, that has been effectually tried, and so far as my experience and information extends, in every instance has it failed of effecting the object intended.

In the State-Prison, in this city, the practice has uniformly prevailed

of tasking the prisoners, and allowing them full price for over work, and these tasks are by no means severe, inasmuch as the greater portion of the convicts are able to perform the work allotted them for the day, from two to four hours short of the time; but it was found, on examination, that for the last three years the whole amount of earnings on over work was but \$246 81, which divided among 452 men, the number actually employed, will leave but fifty four cents for each man for the whole time, and only eighteen cents per man annually. It was admitted by the keepers of this prison, that there were but few of the convicts who embraced the privilege of performing over work, and of this, the Commissioners had ocular demonstration during their examination, for on several occasions the men were found idle at their looms and work benches, and some of them apparently sleeping. This was in the afternoon, when the allotment of work for the day was finished, and the compulsory process of their keepers of course suspended. It was the knowledge of these facts which induced the Commissioners to omit the recommendation of this practice, and from the experience of a contrary practice at the Auburn prison, where no tasks are given and no over work paid for, but the convict compelled to work steadily through the day, not unreasonably laborious, "by the dread of the lash or the horrible punishment of solitary confinement," as you seem to think, but moderate, though incessant, that has confirmed them in their opinion of the inutility of the practice, if not of its injurious effects, upon the discipline of the prison and the habits of the prisoners.

You further state, that the plan proposed by the commissioners, "leaves the prisoner without a sufficient protection against cruelty and oppression, and subjects his destiny for life or death to the absolute will of an individual."

These are consequences which most assuredly was not anticipated by us, neither do I believe that, with the guards and checks provided they can possibly occur.

The provisions of the act are as follows:—That the Governor with the consent of the Senate shall appoint the inspectors, who are to examine monthly, or oftener if they deem it necessary, into the concerns of their respective prisons. They are to appoint the clerk, chaplain and physician of the prisons, and it is made the duty of the deputy keepers, physician, clerk, and chaplain, to report to the inspectors any improper act of the agent, and if in the opinion of the inspectors sufficient cause exists, they are bound to recommend his removal.—This I should suppose would be considered by most people a sufficient protection against the cruelty and oppression of the agent and principal keeper. But the act provided further, that the Legislature

of the state shall appoint three commissioners, under whose general direction and government the said prisons shall be placed, who shall appoint the agents and remove them at pleasure ; and the rules and laws for the internal government of said prisons shall be framed by a board consisting of the commissioners, inspectors, and agents of said prisons, respectively. Thus the agent is not only placed under the controul of the commissioners who appoints him and who may remove him at pleasure, but all his acts are performed under the eye of the clerk, chaplain, and inspectors ; and in addition, he is to be guided in the discipline he may use, or the orders he may issue, by the laws enacted by the board of commissioners and inspectors for the internal government of the institution. How it is possible to provide a stronger check upon the conduct of this officer, even were he so depraved as to use his authority with unrelenting cruelty, as you seem to think he will, I am unable to decide. I think it is pretty evident, from the whole course of your reasoning on this subject, that the view you have taken of it is merely theoretical, and that you are entirely destitute of practical knowledge, and have not given the subject personal attention, but have merely made it a matter of thought ; for had you made yourself acquainted with the duplicity, bad faith, and vicious propensities of old and hardened offenders, not by a casual examination merely, but by repeated and careful observations, you would have found them to be very different from what the goodness of your feelings seems to represent, or I should have been compelled to acknowledge that the convicts of the old world are a distinct race of beings from that of the new.

We are not furnished with the plan you would recommend, except what may be inferred from your remarks on that proposed by the commissioners ; and inasmuch as you discard all that part of their plan, which goes upon the principle of close confinement and steady employment ; and all that part which authorises punishment for disobedience and disorderly conduct, either by whipping or solitude, it might be a favour conferred, if you would give us your views of what should be done with a robust and hardened culprit who resolutely puts the keeper at defiance ; one who instead of performing the work assigned him, be it ever so easy, shall not only destroy the machinery, but render utterly useless the property of the state, by cutting the fabric in ribbands, and openly insulting those who attempt to question the propriety of his conduct. Instances of this nature have been frequent at one of our prisons. I have seen a sturdy convict chained to the floor of his cell and kept on bread and water for a number of days, for a refusal to work at the easy labour of weaving ; and when inquiry was made of him, whether he would go to his work if released,

he replied, No ; he would rather stay where he was, than be out and work. What think you, would not thirty-nine lashes, well laid on, have brought this fellow to his reason ? For my own part, I have no doubt of it.

The existing regulation at the New-York prison appears to meet your approbation ; which is, that for every offence the trial of the convict shall be by the inspectors, and that no whipping must be inflicted unless in the presence of two of them ; and because the commissioners have said, that it was asking too much of inspectors to pronounce judgment and afterwards assist at the execution of the sentence, you "infer it to be the idea of the commissioners, that under their improved system there would be no reluctance whatever on such an occasion."

The commissioners did believe, that the delays occasioned by thus postponing the punishment due an offender, until the meeting of the inspectors, was an injury to the discipline of the prison ; and also, that it was not reasonable to require the inspectors, who are made the judges in the case, to be present and see their sentence carried into execution ; because it is contrary to all judicial proceeding, and might have, as it no doubt has had, the effect of screening the culprit from the just punishment due him for the crimes he had been guilty of.

I hold it to be morally true, that nothing tends more to prevent crime, than the certainty of punishment, and all my experience goes to confirm it. You disapprove in the most decided manner, of permitting the keepers to punish a convict for disorderly behaviour ; and in this you are not alone, for at one of our prisons this prohibition to the keepers is strictly enforced, and the effects are such as might reasonably be expected.

In the prison alluded to, the deputy keepers, under whose charge the convicts are placed during the day, are not allowed to correct them for any improper conduct, or neglect of their work, or abusive language, but must report to the principal keeper. Before the principal, therefore, the convict and under keeper must appear, and their story, pro and con, on every occasion, must be heard, and if the decision is against the convict, the principal keeper has no authority to punish him, otherwise than by shutting him up by himself until the meeting of the Inspectors, who meet monthly, unless he shall be sooner released by a Committe who visits the prison weekly ; and thus the punishment due the culprit is delayed for weeks, and offences increase in proportion, while if the correction was instantaneous the number of offenders would not only be reduced, but corporal punishments, in a great measure, would be unnecessary. I do not state this as mere opinion,

for the experiment has been fairly tested at the Auburn prison, where the discipline recommended by the Commissioners has been in operation for two or three years, while under the guidance of E. Lynds, Esq. and I have no doubt of the fact, that at that establishment, there has been less corporal punishment inflicted than at the prison alluded to, although at the former the discipline has been more strict, and the hardihood of those subjected to it, equally as daring as at the latter.

I am unable to see, therefore, the cruelty of the plan recommended by the Commissioners, for as has already been stated, they only require that the sentence of the law shall be carried into execution.—That sentence is, imprisonment at hard labour for the term designated by the statute. Nothing more is required of the convict, than that required of a regular soldier when upon duty ; in fact, the whole requirement may be compressed in a short sentence—*to keep his tongue, and obey orders.* What would you think of the colonel of a regiment, who, while his men were on duty, should permit them to be conversing together, and while he was issuing his orders, they, in utter contempt of his authority, giving no attention to them whatever ? Would not such a man be pronounced unfit for his station ? I think you will agree with me that he would. Now as discipline is the life and sinew of an army, so is it the safety and protection of a State-Prison ; without it the penitentiary system will not be worth a rush, and I will venture a prediction, that unless a better and more strict discipline shall be established in our prisons, the system will not only fail of producing any reformation of the convict, or reduction in criminal offenders, but it will be brought into such disrepute with the public, that a return may be feared to the old and at present exploded punishment of former times.

You object, that “the plan provides the same equal discipline for all prisoners—pays too little regard to their conduct during confinement, and prescribes no proper means of obtaining pardon, &c.

How can it be otherwise ? No law could be framed that would meet every circumstance which might or might not occur ; and as to the discipline of a prison, there can be but one rule for all ; in the same manner as there is but one rule of discipline for an army. So far as it respects the ability of subjects to perform certain labour or duty, that must be regulated by the experience of those having the supervisory government of the establishments. The means of obtaining a pardon, is by application to the executive ; and there is little danger that these means will be resorted to by the friends of the prisoner, and that too with more success, than in one case out of a hundred, the merits of the subject deserves. It is in my opinion, one of the evils of the system, that pardons are so easily obtained.—

On this head, the commissioners have shown, that from 1810 to 1823, the pardons averaged seventy-four out of every hundred, received in the New-York prison; and that more than three out of every hundred were of those who had been two and three times convicted and sentenced to the prison for their offences. What is the conclusion that sound reason would draw from this result; why, that either the court and jury have erred seventy-four times out of one hundred, or that the executive had exercised the power with which he is invested, indiscreetly? There is no escaping from one or the other of these conclusions.

This plan, in your opinion, "discourages all attempts for reformation of the offender."

This I am not willing to admit, for according to my view, it is calculated to reform the offender much more readily than any plan that has heretofore been tried. Now let us see what the plan proposed by the commissioners is. They have in the first place recommended the erection of a prison, containing eight hundred dormitories, of sufficient capacity to accommodate one person each, as a lodging room or for solitary confinement, if necessary. Here then is classification to perfection, of which the theorists on the penitentiary system have wrote so much. Every individual composes a separate class, and if they ever possessed a spark of that sense of propriety, or of moral and religious obligation, of which few men are entirely destitute; here, while they ruminate on their condition, their folly, and the former courses of vice in which they have indulged, is the place where conviction of their guilt will flash upon the mind; and in this state of mental reflection, they may be induced to form resolutions, which will not afterwards be dissipated by the evil communications of their associates, not only to conduct themselves with propriety in the prison, but to reform, and hereafter lead the life of honest men when out of it; and in order to strengthen them in these resolutions they are each furnished with a bible; and twice in the week hear a discourse from the chaplain of the establishment, suited to their condition, and calculated to lead them from the paths of vice, to that of virtue, piety, and honesty.

When they enter the prison, they are informed, in a plain and conciliatory manner, what are the rules to be observed, and the line of conduct they are to pursue. That they are sent there as punishment, for a crime of which they have been convicted under the laws of their country; and if they conduct themselves with propriety, they will be treated in every respect as well as the laws they have offended against, will authorise or warrant. That nothing more will be required of them than what they are perfectly able to perform. That

they must be diligent in the business they shall be engaged in, never speak to another convict; but when speech is necessary, address themselves to their keeper, and obey the orders of those under whose care they are placed. Thus instructed, their clothes are changed for a prison dress, and they are sent to the dormitory provided for them. In the morning the doors of all the cells are unlocked, and each man, at the word of command, steps out on the gallery in front of his room, and faces to the right or left, as the case may require; when they are led by the keepers in regular file, each having a certain number under his charge, to the pool in the yard, where they wash, and from thence repair to the several work shops and commence the labour for the day. Here the most perfect silence is observed, and every man attends to the business before him and nothing else. At meal times, they are again paraded in front of the work shops, and led by the keeper, each man following his file leader, to the mess room, and here also, the most perfect order and decorum is observed. When they have finished eating, they are allowed half an hour of leisure; but every man keeps his seat and is not allowed to speak to either of his comrades; they are then led in the same regular order to their work. One hour before night they quit work, repair to the pool to wash, and retire to their rooms for rest and reflection. This is but a faint and brief sketch of the practical part of the plan recommended by the Commissioners; there is nothing of theory here, for the plan is now in actual operation at the marble quarries, about thirty miles from this city, and where a prison is building upon the model recommended in the report at which your objections have been levelled.

But in your opinion, it appears, "if this plan is adopted all the exertions which have nearly if not entirely defrayed the whole expences of the prisons, *and restored many useful members to society*, will be of no further avail; and when the old system is nearly perfect, it is to be superseded by one, the sole principal of which is, a harsh, severe and unrelenting course of compulsory labour, which promises to do that, *which the reformatory system has in several instances already done.*"

We should be glad to be favoured with a list of those prisons which have nearly, if not entirely, defrayed the whole of the expenses. There is none that we know of which have done it under any system, except it be the New-Hampshire prison, who have more than paid the whole expense; and that at Charlton, near Boston, where the expense is nearly, if not all paid from the earnings of the convicts; but it must be observed, that in both these places the object is effected by one of the means proposed by the commissioners, viz. by the cutting and dressing stone for buildings; and this business, in

your opinion, "will be the entire ruin of the convict's future prospects and situation in life, as it instructs him in no art or trade by which he may hope to obtain a livelihood, in case of his discharge." The "useful members of society" that have been restored by the penitentiary system as formerly pursued, it is believed, are comparatively few in number, and they have only been such as were young in crime, and who still retained some of the impressions of early education. In this assertion I think I am warranted from every authentic account which has been published of the operation of the penitentiary system in the United States; the reports of inspectors notwithstanding. These reports are always plausible, and no doubt are generally so far correct, as to convey the honest opinion of the inspectors; but it is the fair side of the question which they represent, and therefore the benefits of the system and the operations of their particular institution are detailed at length, while its defects are left in the back ground to be discovered by those who will seek them out.

The report from the state prison located in this city and made to the Legislature in January last, shows a receipt of convicts for the year 1825, of one hundred and fifty-five, and that eighty-nine were pardoned by the Governor during the aforesaid period; being something more than fifty-seven out of every hundred received. Eleven of these pardoned felons were in prison for a second offence, when they experienced the clemency of the Executive; and four of them were in prison on a third offence when they were pardoned. This is a very poor comment upon your "*reformatory system*:" and methinks that the community would have been much more justly dealt with, if the inference you have drawn from the report of the commissioners had been carried into effect upon these incorrigible offenders, *viz* :—"to a sentence of imprisonment for life," for it is a fact which every day's experience confirms, that in general, "lenity to the guilty is cruelty to the rest of the community."

You seem to think "that the pardon of a criminal should entirely depend on his conduct in prison, and the manifestation of a resolution on his part to conduct himself correctly in future."

It was no doubt upon this principle that the eleven convicts above mentioned first received their pardon; they behaved with becoming prudence, and probably persuaded their keepers that they were reformed men; but it appears the reformation only lasted until they were at large, when in a short time they were found at their former villainous courses, nothing daunted by the punishment and fare of a state prison. It is a fact, that a large proportion of the convicts who are the tenants of our prisons are the most expert and artful villains in creation; and would deceive the most acute and observing person were

they not aware of the character of those they had to deal with. Their business is to deceive, and every word and act is covered by deception, cunning, and finesse, numerous instances of which might be recorded were it necessary, and did the time I am enabled to devote to the subject admit.

I will however add a few additional facts by way of illustrating the opinion that the penitentiary system, as heretofore conducted, has not tended to reform any considerable number of those offenders who have been subjected to its discipline.

While preparing the materials for our report to the Legislature, I undertook the task of examining thirty or forty of the convicts who appeared to be the most advanced in years, in order to ascertain whether they were not also advanced in crime in proportion to their age. The result was, as will be seen, that nearly all of them was in on a second offence, some for a third, and some even for a fourth time. The following is a brief sketch of their criminal history, as taken down from their own mouths.

E. D.* He states that he is now in prison for a second offence. That for the first offence he was sentenced to seven years confinement in the state prison at hard labour; but that he only served two years and four months when he received a pardon. He was out of prison about two years when he attempted a forgery, was detected, and sentenced to three years and one day's imprisonment, part of the time in solitude and part at labour. He stated further, that after receiving his pardon, he left the prison with a determination of conducting himself with propriety; but he soon lost all recollection of this determination, and sought for the company of his former associates in vice, in whose company he committed several improper acts, and finally the one for which he was now confined.

F. K. He is imprisoned on a second conviction. For the first offence he was sentenced to seven years imprisonment in the New-York state prison, of which term he served three years and nine months when he received a pardon; stated that he had learned the business of shoe-making while in prison, and considered himself a good workman; that he was out about two years when he was convicted of forgery, and sentenced to three years and one day's confinement, part in solitude and part in labour; felt no compunction for past offences, but insisted that he was wrongfully convicted.

* It has been deemed proper to suppress the names of the convicts, and only give their initials, in order that their friends and relations, if they have any, may not be pained by a recital of their disgrace.

W. S. This is the second time he has been in the state prison.— His first sentence was for life; but he only served three years and four months, more than a year of which he was in solitary confinement. By the influence of friends, he received the Governor's pardon; but had only been released from confinement about three months when he committed the crime for which he is now imprisoned, and has been in confinement only six days; stated that he did not reflect on the consequence of the crime for which he is now confined, nor did he bring to mind the punishment he had already endured for his former offence.

O. D. This is a young man, and is in prison for a second time. The first crime he committed was horse stealing, for which he was sentenced to seven years imprisonment; but he was only confined six months when he was pardoned; and after being out about four months, he was a second time convicted of theft, for which he is sentenced to ten years imprisonment. He was sent with other convicts to work on the canal, and escaped from his keepers, but shortly after was re-taken and returned to the prison.

J. W. He is in for a second offence. The first crime of which he was convicted, was stealing a quantity of silk goods of considerable value, for which he was sentenced to six years confinement in the New-York prison at hard labour, where he worked at the carpenter's business and served out the whole of his sentence. He was liberated but three days when he committed highway robbery, by knocking down a man and robbing him of his money. He was pursued and taken by the watch, but made his escape from them.— About seven weeks after this, he was re-taken, tried, convicted, and sentenced to three years and one day's imprisonment: seven months of which he has served in the prison at New-York, and seven months at Auburn in solitary confinement; considers the punishment of solitude far exceeding all he has received on both sentences in the New-York prison.

J. L. Is in confinement on a second offence. His first crime was Grand Larceny for which he was sentenced to four years imprisonment. He served two years of the time, when he was pardoned; and was at liberty only eight months, when he committed a second offence, for which he is now imprisoned.

H. M. He is in prison for the third time. His first conviction was in New-York, when he was sentenced to seven years confinement, and served two years and two months when he was pardoned.

Five months after his liberation he was convicted of a second offence and sentenced to eight years confinement, of which he completed five years and eight months when he was pardoned a second time.— About one month after his discharge he committed the third offence and was sentenced to three years and a day, of which he served about ten months in the New-York prison, and seven months in solitude at Auburn. Appeared very penitent, and said he was a reformed man, and had fully repented of his evil deeds.

J. V. He stated that while he was quite young he commenced stealing; that his first sentence was to the New-York penitentiary for two years, and his second was to the state-prison for three years, both of which periods he served in prison. He was then convicted for the third time of Grand Larceny and sentenced to ten years at hard labour in the New-York state-prison, where he served seven years and four months of the time and was pardoned by the governor. He was not out long, however, before he was a fourth time convicted and is now in for fourteen years, three years of which sentence was served in the New-York prison; that he has learned the shoe-making business there, and is a good workman. He is now in solitary confinement, and begged that he might have work given him, as he was in want of employment in order to relieve the mind from the thoughts of his evil ways, &c.

R. B. This is the second time he has been in the state-prison.— His first sentence was for three years which he served out, and learned the tailoring business. About five months after his liberation, he committed the second offence and was sentenced to ten years imprisonment, sixty-one days of which he has served in the New-York prison and seven months at Auburn.

L. B. He is in prison for the third time. About eight years ago he was sentenced to the New-York prison for four years, of which he served only six months when he was pardoned; one or two years after this he committed the second offence for which he received a sentence of nine years at hard labour, but only served seven months when he was pardoned a second time. He says that he was out of prison about three years and a half when he committed the third offence and was sentenced for four years, of which only twelve months have expired.

I. A. His first sentence was for five years to the New-York prison, where he served two years, when he received a pardon. He stated that he was at large nearly two years, and during that time

committed several criminal acts, but escaped detection, until finally he was convicted of Grand Larceny, for which he is now imprisoned on a sentence for ten years, and has served about eight months, part of the time at work at the building, and part of the time in solitude.

H. P. He was sentenced for the first offence to eighteen years confinement, in the New-York prison, where he served four years at the shoe-making business when he received a pardon. It was more than two years after his liberation before he committed the offence for which he is now confined on a sentence of seven years. Has been in only eleven months, part of the time in solitude, and hopes by his peaceable conduct to be forgiven, and once more to be pardoned.

A. L. He was first sentenced to seven years confinement in the New-York prison, where he worked as a cooper for five years and upwards, when he was pardoned. It was about four months after his liberation when he committed the second offence; was convicted, and sentenced to eight years confinement in the New-York prison, where he served one year and eight months at the business of weaving, and has been in the Auburn prison seven months, most of the time in solitude; stated that his health was good, and that he could eat his allowance, but would prefer the work of the shops to idleness in his cell.

D. B. For his first offence he was sentenced to five years in the New-York prison, of which he served two years and four months when he was pardoned. He was but a short time at liberty when he committed the second offence, of which he was convicted and sentenced for seven years to the same prison. Here he served six months in the cells, and about two years at the business of comb-making, when he was ordered to the Auburn prison on a charge of irregular conduct, where he has been seven months in solitude.

A. B. He is in for a second offence. For the first offence he was sentenced to six years confinement, of which he served two years and five months when he was favoured with a pardon—says he was out more than two years before he was convicted of the second offence, for which he was sentenced to imprisonment for life. He worked in the New-York prison at weaving, but was charged with cutting the web from his loom, and sent to the Auburn prison, where he has been several months in one of the cells.

G. B. A black man. He has also been twice in prison. For his first offence he was sentenced to the New-York prison for the

term of four years. He served twenty-two months of the time, part at shoemaking and part as a waiter, when he received a pardon.—He stated that he was out of prison nearly three years before he was convicted of the second offence for which he is now in on a sentence of seven years, and that he served one year of the last sentence in the New-York prison at comb-making; but, had some words with the keeper, for which he was sent to Auburn, where he has been seven months.

A. W. Is in prison on a second conviction. For the first he was sentenced to three years confinement in the Auburn prison, where he served thirty months of the time when he was pardoned. He was free fourteen months when he was again convicted and sentenced to five years at hard labour and solitude alternately.

M. R. S. He has been twice convicted. For the first offence he was sentenced to confinement at labour for five years in the Auburn prison, and served about three years, when he, with another, was charged with an attempt to set fire to the prison, and was placed in solitary confinement for one year, when he received a pardon. He was out of prison four months when he was a second time convicted, and has now been in prison only five months.

W. H. This is the third time he has been convicted. For the first crime he was sentenced to three years and one month in the New-York state-prison, of which term he served eighteen months at the blacksmith trade when he received a pardon for the remainder of the term. He says that he was out about three years before he was convicted of the second offence, but during that period he was not idle, for he did little else except pilfering for a living, but was always successful in avoiding detection until he committed the crime for which he is now confined. His sentence was five years at hard labour, of which he served three years in the Auburn prison, when he was sent to work on the canal. He continued on the canal but a few days when he escaped from his keepers and was at liberty about a year when he was re-taken and sentenced by the court to four years confinement at hard labour, ten months of which he has served, part at labour, and part in the cells.

R. W. His first conviction was for Grand Larceny, for which he was sentenced to seven years confinement in the New-York prison, of which he served seventeen months at the shoe-making business, when he attempted to break prison, for which he was tried and found guilty, when he was sentenced for three years in addition to the

former term. After the last sentence, he was placed in one of the cells and kept there on bread and water for six months when he was released and sent to the cooper's shop where he worked four months. Here he had a serious dispute with one of his fellow prisoners and attempted to murder him, but was prevented by the keepers. He was then sent to the Auburn prison, where he has been only seven months.

J. H. His is a second conviction; for the first offence he was sentenced to be confined for three years in the prison at Auburn, where he served six months at the cooper's business, when he was sent with others to work on the canal, but in a few days escaped from his keepers, and was out of prison more than two years when he was arrested for robbery, tried, convicted, and sentenced to fourteen years confinement, six months in solitude, and the remainder of the term at hard labour.

These are cases in point, to which might be added many more were it necessary, all tending to exhibit a state of things under the "*reformatory system*," which I should suppose would put an end to every doubt on this subject, and convince the most skeptical that however desirable it may be to reform a confirmed villain, it is, to say the least of it, a forlorn hope.

You have been pleased to quote from our report, and the Act accompanying it, such parts only as appeared to answer the purpose you had in view, and have left unnoticed other parts which would at least have went to qualify those you have objected to. Thus you seem to think that the Commissioners anticipate a revolt under the system they have recommended, because one of the sections of the Act authorises the raising of a company of militia from the inhabitants in the vicinity of the prisons who may be called on in the event of need. The fact is, that the Act alluded to, is in a great measure, a compilation of the present laws for the government of the state prisons; and these laws are scattered through six or seven volumes of the statutes of this state, and the provision you allude to, is verbatim the present law. If you had turned to the document E, attached to the report, you would have seen that the Commissioners recommended the discharge of six of the guard from the Auburn prison, leaving but five, "which it is presumed, they say, are all that can be wanted in a prison which is so strong and secure against escapes as that at Auburn." And by turning to document F, you would have observed, that the Commissioners give the following opinion:—"But was the prison at New-York made as secure as that at Auburn, or a

new prison built upon that plan, and the discipline of the Auburn prison introduced, under an able keeper, nearly the whole of the guard might be dispensed with.

Your conclusion on this subject therefore, falls to the ground, and only tends to show, that you have given the report, as you acknowledge, "a hasty perusal," and that you have no conception of the character, disposition, and propensities, of the subjects we have to deal with.

That the report might have expressed our opinions with more conciseness than what it does, and with less complexity, I am willing to admit, but not that it recommends principles at war with justice or humanity, such as you ascribe to it. The Commissioners are men of like passions and feelings with others, and will go as far to relieve the distress, or reform the vices and infirmities of their fellow-beings, as any; but when they have a public duty to perform, they will not shrink from the responsibility of exposing the facts which have come to their knowledge, and proposing such remedy for the evils, which the wicked propensities of a portion of their species have brought upon the community, as in their opinion, will in some measure remedy them, and produce a different result, than the system heretofore pursued is calculated to obtain.

S. A.

New-York, May 2d, 1826.